S.B.CIVIL WRIT PETITION No.2562/2002
SOBHAG MAL V. DISTRICT COLLECTOR, BUNDI & Ors

8.1.2007

HON'BLE MR. JUSTICE MOHAMMAD RAFIQ

Shri C.K. Jain for the petitioner.
Shri Shashank Sharma)
Ms Poornima Sharma), for respondents.

Heard learned counsel for the parties.

Land-lord has come in the writ petition against the order passed by the District Collector, Bundi. Respondent tenant filed an appeal before the District on 12.2.2002 u/s 22(3) of the Rajasthan Premises (Control of Rent & Eviction) Act, 1950 (for short “the Act”) against the order passed by the S.D.M., Bundi, dated 20.7.2001. Learned S.D.M. rejected the application filed by the respondent tenant u/s 12 of the Act in which it was prayed that the land-lord be directed not to obstruct the use of latrine and bath room by the tenant. It was alleged that the land-lord had demolished such latrine and

bath room on 8.6.97 and therefore it should be required to be restored the facility and not be obstruct it. S.D.M. held that the land-lord demolished latrine and bath-room on the basis of notice given him by the Municipal Board dated 27.5.97. The Municipal Board maintained that the aforesaid facilities were causing public nuisance and therefore this being an offence under the provisions of section 182 of the Rajasthan Municipal Act rightly discontinued by the land-lord. District Collector, Bharatpur in his order however reversed the order of the SDM and held that the land-lord was required to seek prior permission of the Magistrate before demolishing latrine and bath-room.

I have heard learned counsel for the parties.

Shri C.K. Jain, learned counsel for the petitioner argued that the latrine and bath room which were existing, were causing

serious problems to those passing through the way and it was a public nuisance, constituting an offence u/s 182 of the Rajasthan Municipalities Act, 1959. When the Municipal Board gave notice to the land-lord on 27.5.97, the public nuisance had to be removed in compliance with the provisions of law. He did so. SDM rightly held that the removal of nuisance did not construe obstruction in use of facility by the tenant. The District Collector has failed to consider the matter in its true perspective. It was argued that the tenant has now constructed the latrine and bath room on his own and is demanding unreasonably high amount for such construction and when the petitioner has refused to make the payment, the tenant on his own started deducting amount from the rent.

Ms. Poornima Sharma, learned counsel for respondent Municipal Board, argued that the

notice was given to the petitioner landlord to convert his dry latrine into flush latrine. The dispute mainly lies inter se between the land-lord and the tenant. Learned counsel for the respondent tenant argued that the when the petitioner failed to provide facility within two months as directed by the District Collect, the respondent had to act of his own and construct the latrine and bath room because they being basic amenities, he could not make use of the tenanted premises without such facility. He stated that property ultimately belongs to the landlord and the respondent No.3 is residing there only in the capacity of a tenant. Therefore, it is the land-lord who has to foot the bill of construction of the latrine and bath room and only reasonable amount is being demanded. When the petitioner failed to make payment, rent has been adjusted against the

outstanding amount incurred in construction of the latrine and bath room. He therefore, submits that the writ petition be dismissed.

I have heard learned counsel for the parties.

The aforesaid discussion shows that when the District Collector, Bundi required the petitioner to provide the facility of latrine and bath room to the respondent tenant within two months, the petitioner failed to provide such facility within the time allowed. The respondent cannot be said to have acted in contravention of any order or any law by restoring the facility on his own. What can be the reasonable amount incurred in construction of such facility, is not a subject matter of examination by this court. Such construction, according to the learned counsel was made as per the direction given by the District Collector Bundi. Dispute as to the reasonableness of

amount and wrongful deduction of rent is essentially a dispute inter se between land-lord and tenant. Such dispute would require evidence to be led by the parties. Appropriate forum for adjudication of such dispute can be Rent Tribunal and not this court.

The writ petition having no merit, is dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.

Chauhan/